

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3361
OFFERED BY MR. SENSENBRENNER OF
WISCONSIN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Uniting and Strengthening America by Fulfilling Rights
4 and Ending Eavesdropping, Dragnet-collection, and On-
5 line Monitoring Act” or the “USA FREEDOM Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

Sec. 101. Additional requirements for call detail records.

Sec. 102. Emergency authority.

Sec. 103. Prohibition on bulk collection of tangible things.

Sec. 104. Judicial review of minimization procedures for the production of tangible things.

Sec. 105. Liability protection.

Sec. 106. Compensation for assistance.

Sec. 107. Definitions.

Sec. 108. Inspector general reports on business records orders.

Sec. 109. Effective date.

**TITLE II—FISA PEN REGISTER AND TRAP AND TRACE DEVICE
REFORM**

Sec. 201. Prohibition on bulk collection.

Sec. 202. Minimization procedures.

TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUTSIDE
THE UNITED STATES REFORMS

- Sec. 301. Prohibition on reverse targeting.
Sec. 302. Minimization procedures.
Sec. 303. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT
REFORMS

- Sec. 401. Appointment of amicus curiae.
Sec. 402. Declassification of decisions, orders, and opinions.

TITLE V—NATIONAL SECURITY LETTER REFORM

- Sec. 501. Prohibition on bulk collection.

TITLE VI—FISA TRANSPARENCY AND REPORTING
REQUIREMENTS

- Sec. 601. Additional reporting on orders requiring production of business records.
Sec. 602. Business records compliance reports to Congress.
Sec. 603. Annual report by the Director of the Administrative Office of the United States Courts on orders entered.
Sec. 604. Reporting requirements for decisions of the Foreign Intelligence Surveillance Court.
Sec. 605. Submission of reports under FISA.

TITLE VII—SUNSETS

- Sec. 701. Sunsets.

1 SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE
2 SURVEILLANCE ACT OF 1978.

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or a repeal of, a section or other
6 provision, the reference shall be considered to be made to
7 a section or other provision of the Foreign Intelligence
8 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

TITLE I—FISA BUSINESS RECORDS REFORMS

SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL RECORDS.

(a) APPLICATION.—Section 501(b)(2) (50 U.S.C. 1861(b)(2)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “a statement” and inserting “in the case of an application other than an application described in subparagraph (C), a statement”; and

(B) in clause (iii), by striking “; and” and inserting a semicolon;

(2) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (D), respectively; and

(3) by inserting after subparagraph (B) (as so redesignated) the following new subparagraph:

“(C) in the case of an application for the production of call detail records created on or after the date of the application, a statement of facts showing that—

“(i) there are reasonable grounds to believe that the call detail records sought to be produced based on the specific selec-

1 tion term required under subparagraph (A)
2 are relevant to an authorized investigation
3 (other than a threat assessment) conducted
4 in accordance with subsection (a)(2) to
5 protect against international terrorism;
6 and

7 “(ii) there are facts giving rise to a
8 reasonable, articulable suspicion that such
9 specific selection term is associated with a
10 foreign power or an agent of a foreign
11 power; and”.

12 (b) ORDER.—Section 501(c)(2) (50 U.S.C.
13 1861(c)(2)) is amended—

14 (1) in subparagraph (D), by striking “; and”
15 and inserting a semicolon;

16 (2) in subparagraph (E), by striking the period
17 and inserting “; and”; and

18 (3) by adding at the end the following new sub-
19 paragraph:

20 “(F) in the case of an application de-
21 scribed in subsection (b)(2)(C), shall—

22 “(i) authorize the production of call
23 detail records for a period not to exceed
24 180 days;

1 “(ii) provide that an order for such
2 production may be extended upon applica-
3 tion under subsection (b) and the judicial
4 finding under paragraph (1);

5 “(iii) provide that the Government
6 may require the production of call detail
7 records—

8 “(I) using the specific selection
9 term that satisfies the standard re-
10 quired under subsection (b)(2)(C)(ii)
11 as the basis for production; and

12 “(II) using the results of the pro-
13 duction under subclause (I) as the
14 basis for production;

15 “(iv) direct each person the Govern-
16 ment directs to produce call detail records
17 under the order to furnish the Government
18 forthwith all information, facilities, or
19 technical assistance necessary to accom-
20 plish the production in such a manner as
21 will protect the secrecy of the production
22 and produce a minimum of interference
23 with the services that such person is pro-
24 viding to each subject of the production;
25 and

1 “(v) direct the Government to destroy
2 all call detail records produced under the
3 order not later than 5 years after the date
4 of the production of such records, except
5 for records that are relevant to an author-
6 ized investigation (other than a threat as-
7 sessment) conducted in accordance with
8 subsection (a)(2) to protect against inter-
9 national terrorism.”.

10 **SEC. 102. EMERGENCY AUTHORITY.**

11 (a) **AUTHORITY.**—Section 501 (50 U.S.C. 1861) is
12 amended by adding at the end the following new sub-
13 section:

14 “(i) **EMERGENCY AUTHORITY FOR PRODUCTION OF**
15 **TANGIBLE THINGS.**—

16 “(1) Notwithstanding any other provision of
17 this section, the Attorney General may require the
18 emergency production of tangible things if the Attor-
19 ney General—

20 “(A) reasonably determines that an emer-
21 gency situation requires the production of tan-
22 gible things to obtain information for an au-
23 thorized investigation (other than a threat as-
24 sessment) conducted in accordance with sub-
25 section (a)(2) to protect against international

1 terrorism before an order authorizing such pro-
2 duction can with due diligence be obtained;

3 “(B) reasonably determines that the fac-
4 tual basis for the issuance of an order under
5 this section to approve such production of tan-
6 gible things exists;

7 “(C) informs, either personally or through
8 a designee, a judge having jurisdiction under
9 this section at the time the Attorney General
10 requires the emergency production of tangible
11 things that the decision has been made to em-
12 ploy the authority under this subsection; and

13 “(D) makes an application in accordance
14 with this section to a judge having jurisdiction
15 under this section as soon as practicable, but
16 not later than 7 days after the Attorney Gen-
17 eral requires the emergency production of tan-
18 gible things under this subsection.

19 “(2) If the Attorney General authorizes the
20 emergency production of tangible things under para-
21 graph (1), the Attorney General shall require that
22 the minimization procedures required by this section
23 for the issuance of a judicial order be followed.

24 “(3) In the absence of a judicial order approv-
25 ing the production of tangible things under this sub-

1 section, the production shall terminate when the in-
2 formation sought is obtained, when the application
3 for the order is denied, or after the expiration of 7
4 days from the time the Attorney General begins re-
5 quiring the emergency production of such tangible
6 things, whichever is earliest.

7 “(4) A denial of the application made under
8 this subsection may be reviewed as provided in this
9 section.

10 “(5) If such application for approval is denied,
11 or in any other case where the production of tangible
12 things is terminated and no order is issued approv-
13 ing the production, no information obtained or evi-
14 dence derived from such production shall be received
15 in evidence or otherwise disclosed in any trial, hear-
16 ing, or other proceeding in or before any court,
17 grand jury, department, office, agency, regulatory
18 body, legislative committee, or other authority of the
19 United States, a State, or political subdivision there-
20 of, and no information concerning any United States
21 person acquired from such production shall subse-
22 quently be used or disclosed in any other manner by
23 Federal officers or employees without the consent of
24 such person, except with the approval of the Attor-

1 ney General if the information indicates a threat of
2 death or serious bodily harm to any person.

3 “(6) The Attorney General shall assess compli-
4 ance with the requirements of paragraph (5).”.

5 (b) CONFORMING AMENDMENT.—Section 501(d) (50
6 U.S.C. 1861(d)) is amended—

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph
9 (A), by striking “pursuant to an order” and in-
10 serting “pursuant to an order issued or an
11 emergency production required”;

12 (B) in subparagraph (A), by striking “such
13 order” and inserting “such order or such emer-
14 gency production”; and

15 (C) in subparagraph (B), by striking “the
16 order” and inserting “the order or the emer-
17 gency production”; and

18 (2) in paragraph (2)—

19 (A) in subparagraph (A), by striking “an
20 order” and inserting “an order or emergency
21 production”; and

22 (B) in subparagraph (B), by striking “an
23 order” and inserting “an order or emergency
24 production”.

1 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**
2 **GIBLE THINGS.**

3 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.
4 1861(b)(2)), as amended by section 101(a), is further
5 amended by inserting before subparagraph (B), as redes-
6 ignated by such section 101(a), the following new subpara-
7 graph:

8 “(A) a specific selection term to be used as
9 the basis for the production of the tangible
10 things sought;”.

11 (b) ORDER.—Section 501(c) (50 U.S.C. 1861(c)) is
12 amended—

13 (1) in paragraph (2)(A), by striking the semi-
14 colon and inserting “, including each specific selec-
15 tion term to be used as the basis for the produc-
16 tion;”; and

17 (2) by adding at the end the following new
18 paragraph:

19 “(3) No order issued under this subsection may au-
20 thorize the collection of tangible things without the use
21 of a specific selection term that meets the requirements
22 of subsection (b)(2).”.

1 **SEC. 104. JUDICIAL REVIEW OF MINIMIZATION PROCE-**
2 **DURES FOR THE PRODUCTION OF TANGIBLE**
3 **THINGS.**

4 Section 501(c)(1) (50 U.S.C. 1861(c)(1)) is amended
5 by inserting after “subsections (a) and (b)” the following:
6 “and that the minimization procedures submitted in ac-
7 cordance with subsection (b)(2)(D) meet the definition of
8 minimization procedures under subsection (g)”.

9 **SEC. 105. LIABILITY PROTECTION.**

10 Section 501(e) (50 U.S.C. 1861(e)) is amended to
11 read as follows:

12 “(e) No cause of action shall lie in any court against
13 a person who produces tangible things or provides infor-
14 mation, facilities, or technical assistance pursuant to an
15 order issued or an emergency production required under
16 this section. Such production shall not be deemed to con-
17 stitute a waiver of any privilege in any other proceeding
18 or context.”.

19 **SEC. 106. COMPENSATION FOR ASSISTANCE.**

20 Section 501 (50 U.S.C. 1861), as amended by section
21 102 of this Act, is further amended by adding at the end
22 the following new subsection:

23 “(j) **COMPENSATION.**—The Government shall com-
24 pensate, at the prevailing rate, a person for producing tan-
25 gible things or providing information, facilities, or assist-

1 ance in accordance with an order issued or an emergency
2 production required under this section.”.

3 **SEC. 107. DEFINITIONS.**

4 Section 501 (50 U.S.C. 1861), as amended by section
5 106 of this Act, is further amended by adding at the end
6 the following new subsection:

7 “(k) **DEFINITIONS.**—In this section:

8 “(1) **CALL DETAIL RECORD DEFINED.**—The
9 term ‘call detail record’—

10 “(A) means session identifying information
11 (including originating or terminating telephone
12 number, International Mobile Subscriber Identi-
13 tity number, or International Mobile Station
14 Equipment Identity number), a telephone call-
15 ing card number, or the time or duration of a
16 call; and

17 “(B) does not include—

18 “(i) the contents of any communica-
19 tion (as defined in section 2510(8) of title
20 18, United States Code);

21 “(ii) the name, address, or financial
22 information of a subscriber or customer; or

23 “(iii) cell site location information.

1 “(2) SPECIFIC SELECTION TERM.—The term
2 ‘specific selection term’ means a term used to
3 uniquely describe a person, entity, or account.”.

4 **SEC. 108. INSPECTOR GENERAL REPORTS ON BUSINESS**
5 **RECORDS ORDERS.**

6 Section 106A of the USA PATRIOT Improvement
7 and Reauthorization Act of 2005 (Public Law 109–177;
8 120 Stat. 200) is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1), by inserting “and
11 calendar years 2012 through 2014” after
12 “2006”;

13 (B) by striking paragraphs (2) and (3);

14 (C) by redesignating paragraphs (4) and
15 (5) as paragraphs (2) and (3), respectively; and

16 (D) in paragraph (3) (as so redesign-
17 nated)—

18 (i) by striking subparagraph (C) and
19 inserting the following new subparagraph:

20 “(C) with respect to calendar years 2012
21 through 2014, an examination of the minimiza-
22 tion procedures used in relation to orders under
23 section 501 of the Foreign Intelligence Surveil-
24 lance Act of 1978 (50 U.S.C. 1861) and wheth-
25 er the minimization procedures adequately pro-

1 tect the constitutional rights of United States
2 persons;” and

3 (ii) in subparagraph (D), by striking
4 “(as such term is defined in section 3(4) of
5 the National Security Act of 1947 (50
6 U.S.C. 401a(4)))”;

7 (2) in subsection (c), by adding at the end the
8 following new paragraph:

9 “(3) CALENDAR YEARS 2012 THROUGH
10 2014.—Not later than December 31, 2015, the In-
11 spector General of the Department of Justice shall
12 submit to the Committee on the Judiciary and the
13 Select Committee on Intelligence of the Senate and
14 the Committee on the Judiciary and the Permanent
15 Select Committee on Intelligence of the House of
16 Representatives a report containing the results of
17 the audit conducted under subsection (a) for cal-
18 endar years 2012 through 2014.”;

19 (3) by redesignating subsections (d) and (e) as
20 subsections (e) and (f), respectively;

21 (4) by inserting after subsection (c) the fol-
22 lowing new subsection:

23 “(d) INTELLIGENCE ASSESSMENT.—

24 “(1) IN GENERAL.—For the period beginning
25 on January 1, 2012, and ending on December 31,

1 2014, the Inspector General of the Intelligence Com-
2 munity shall assess—

3 “(A) the importance of the information ac-
4 quired under title V of the Foreign Intelligence
5 Surveillance Act of 1978 (50 U.S.C. 1861 et
6 seq.) to the activities of the intelligence commu-
7 nity;

8 “(B) the manner in which that information
9 was collected, retained, analyzed, and dissemi-
10 nated by the intelligence community;

11 “(C) the minimization procedures used by
12 elements of the intelligence community under
13 such title and whether the minimization proce-
14 dures adequately protect the constitutional
15 rights of United States persons; and

16 “(D) any minimization procedures pro-
17 posed by an element of the intelligence commu-
18 nity under such title that were modified or de-
19 nied by the court established under section
20 103(a) of such Act (50 U.S.C. 1803(a)).

21 “(2) SUBMISSION DATE FOR ASSESSMENT.—

22 Not later than December 31, 2015, the Inspector
23 General of the Intelligence Community shall submit
24 to the Committee on the Judiciary and the Select
25 Committee on Intelligence of the Senate and the

1 Committee on the Judiciary and the Permanent Se-
2 lect Committee on Intelligence of the House of Rep-
3 resentatives a report containing the results of the
4 assessment for calendar years 2012 through 2014.”;
5 (5) in subsection (e), as redesignated by para-
6 graph (3)—

7 (A) in paragraph (1)—

8 (i) by striking “a report under sub-
9 section (c)(1) or (c)(2)” and inserting “any
10 report under subsection (c) or (d)”; and

11 (ii) by striking “Inspector General of
12 the Department of Justice” and inserting
13 “Inspector General of the Department of
14 Justice, the Inspector General of the Intel-
15 ligence Community, and any Inspector
16 General of an element of the intelligence
17 community that prepares a report to assist
18 the Inspector General of the Department
19 of Justice or the Inspector General of the
20 Intelligence Community in complying with
21 the requirements of this section”; and

22 (B) in paragraph (2), by striking “the re-
23 ports submitted under subsections (c)(1) and
24 (c)(2)” and inserting “any report submitted
25 under subsection (c) or (d)”;

1 (6) in subsection (f), as redesignated by para-
2 graph (3)—

3 (A) by striking “The reports submitted
4 under subsections (c)(1) and (c)(2)” and insert-
5 ing “Each report submitted under subsection
6 (c)”;

7 (B) by striking “subsection (d)(2)” and in-
8 serting “subsection (e)(2)”;

9 (7) by adding at the end the following new sub-
10 section:

11 “(g) DEFINITIONS.—In this section:

12 “(1) INTELLIGENCE COMMUNITY.—The term
13 ‘intelligence community’ has the meaning given that
14 term in section 3 of the National Security Act of
15 1947 (50 U.S.C. 3003).

16 “(2) UNITED STATES PERSON.—The term
17 ‘United States person’ has the meaning given that
18 term in section 101 of the Foreign Intelligence Sur-
19 veillance Act of 1978 (50 U.S.C. 1801).”.

20 **SEC. 109. EFFECTIVE DATE.**

21 The amendments made by sections 101 through 103
22 shall take effect on the date that is 180 days after the
23 date of the enactment of this Act.

1 **TITLE II—FISA PEN REGISTER**
2 **AND TRAP AND TRACE DE-**
3 **VICE REFORM**

4 **SEC. 201. PROHIBITION ON BULK COLLECTION.**

5 (a) PROHIBITION.—Section 402(c) (50 U.S.C.
6 1842(c)) is amended—

7 (1) in paragraph (1), by striking “; and” and
8 inserting a semicolon;

9 (2) in paragraph (2), by striking the period and
10 inserting a semicolon; and

11 (3) by adding at the end the following new
12 paragraph:

13 “(3) a specific selection term to be used as the
14 basis for selecting the telephone line or other facility
15 to which the pen register or trap and trace device
16 is to be attached or applied; and”.

17 (b) DEFINITION.—Section 401 (50 U.S.C. 1841) is
18 amended by adding at the end the following new para-
19 graph:

20 “(4) The term ‘specific selection term’ has the
21 meaning given the term in section 501.”.

22 **SEC. 202. MINIMIZATION PROCEDURES.**

23 (a) DEFINITION.—Section 401 (50 U.S.C. 1841), as
24 amended by section 201 of this Act, is further amended
25 by adding at the end the following new paragraph:

1 “(5) The term ‘minimization procedures’
2 means—

3 “(A) specific procedures that are reason-
4 ably designed in light of the purpose and tech-
5 nique of an order for the installation and use
6 of a pen register or trap and trace device to
7 minimize the retention and prohibit the dissemi-
8 nation of nonpublicly available information con-
9 cerning unconsenting United States persons
10 consistent with the need of the United States to
11 obtain, produce, and disseminate foreign intel-
12 ligence information;

13 “(B) procedures that require that nonpub-
14 licly available information, which is not foreign
15 intelligence information, as defined in section
16 101(e)(1), shall not be disseminated in a man-
17 ner that identifies any United States person,
18 without such person’s consent, unless such per-
19 son’s identity is necessary to understand foreign
20 intelligence information or assess its impor-
21 tance; and

22 “(C) notwithstanding subparagraphs (A)
23 and (B), procedures that allow for the retention
24 and dissemination of information that is evi-
25 dence of a crime which has been, is being, or

1 is about to be committed and that is to be re-
2 tained or disseminated for law enforcement pur-
3 poses.”.

4 (b) APPLICATION.—Section 402(c) (50 U.S.C.
5 1842(c)), as amended by section 201 of this Act, is further
6 amended by adding at the end the following new para-
7 graph:

8 “(4) a statement of proposed minimization pro-
9 cedures.”.

10 (c) ORDER.—Section 402(d) (50 U.S.C. 1842(d)) is
11 amended—

12 (1) in paragraph (1), by inserting “and that the
13 proposed minimization procedures meet the defini-
14 tion of minimization procedures under this title” be-
15 fore the period at the end; and

16 (2) in paragraph (2)(B)—

17 (A) in clause (ii)(II), by striking “; and”
18 and inserting a semicolon; and

19 (B) by adding at the end the following new
20 clause:

21 “(iv) the minimization procedures be fol-
22 lowed; and”.

23 (d) COMPLIANCE ASSESSMENT.—Section 402 (50
24 U.S.C. 1842) is amended by adding at the end the fol-
25 lowing new subsection:

1 “(h) At or before the end of the period of time for
2 which the installation and use of a pen register or trap
3 and trace device is approved under an order or an exten-
4 sion under this section, the judge may assess compliance
5 with the minimization procedures by reviewing the cir-
6 cumstances under which information concerning United
7 States persons was retained or disseminated.”.

8 **TITLE III—FISA ACQUISITIONS**
9 **TARGETING PERSONS OUT-**
10 **SIDE THE UNITED STATES RE-**
11 **FORMS**

12 **SEC. 301. PROHIBITION ON REVERSE TARGETING.**

13 Section 702(b)(2) (50 U.S.C. 1881a(b)(2)) is amend-
14 ed by striking “the purpose” and inserting “a purpose”.

15 **SEC. 302. MINIMIZATION PROCEDURES.**

16 Section 702(e)(1) (50 U.S.C. 1881a(e)(1)) is amend-
17 ed—

18 (1) by striking “that meet” and inserting the
19 following: “that—

20 “(A) meet”;

21 (2) in subparagraph (A) (as designated by
22 paragraph (1) of this section), by striking the period
23 and inserting “; and”; and

24 (3) by adding at the end the following new sub-
25 paragraph:

1 “(B) consistent with such definition, mini-
2 mize the acquisition, and prohibit the retention
3 and dissemination, of any communication as to
4 which the sender and all intended recipients are
5 determined to be located in the United States
6 and prohibit the use of any discrete, non-target
7 communication that is determined to be to or
8 from a United States person or a person who
9 appears to be located in the United States, ex-
10 cept to protect against an immediate threat to
11 human life.”.

12 **SEC. 303. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
13 **FORMATION.**

14 Section 702(i)(3) (50 U.S.C. 1881a(i)(3)) is amended
15 by adding at the end the following new subparagraph:

16 “(D) LIMITATION ON USE OF INFORMA-
17 TION.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in clause (ii), no information ob-
20 tained or evidence derived from an acquisi-
21 tion pursuant to a certification or tar-
22 geting or minimization procedures subject
23 to an order under subparagraph (B) con-
24 cerning any United States person shall be
25 received in evidence or otherwise disclosed

1 in any trial, hearing, or other proceeding
2 in or before any court, grand jury, depart-
3 ment, office, agency, regulatory body, legis-
4 lative committee, or other authority of the
5 United States, a State, or political subdivi-
6 sion thereof, and no information con-
7 cerning any United States person acquired
8 from the acquisition shall subsequently be
9 used or disclosed in any other manner by
10 Federal officers or employees without the
11 consent of the United States person, ex-
12 cept with the approval of the Attorney
13 General if the information indicates a
14 threat of death or serious bodily harm to
15 any person.

16 “(ii) EXCEPTION.—If the Government
17 corrects any deficiency identified by the
18 order of the Court under subparagraph
19 (B), the Court may permit the use or dis-
20 closure of information acquired before the
21 date of the correction under such mini-
22 mization procedures as the Court shall es-
23 tablish for purposes of this clause.”.

1 **TITLE IV—FOREIGN INTEL-**
2 **LIGENCE SURVEILLANCE**
3 **COURT REFORMS**

4 **SEC. 401. APPOINTMENT OF AMICUS CURIAE.**

5 Section 103 (50 U.S.C. 1803) is amended by adding
6 at the end the following new subsection:

7 “(i) AMICUS CURIAE.—

8 “(1) AUTHORIZATION.—A court established
9 under subsection (a) or (b), consistent with the re-
10 quirement of subsection (c) and any other statutory
11 requirement that the court act expeditiously or with-
12 in a stated time—

13 “(A) shall appoint an individual to serve as
14 amicus curiae to assist such court in the consid-
15 eration of any application for an order or review
16 that, in the opinion of the court, presents a
17 novel or significant interpretation of the law,
18 unless the court issues a written finding that
19 such appointment is not appropriate; and

20 “(B) may appoint an individual to serve as
21 amicus curiae in any other instance as such
22 court deems appropriate.

23 “(2) DESIGNATION.—The presiding judges of
24 the courts established under subsections (a) and (b)
25 shall jointly designate not less than 5 individuals to

1 be eligible to serve as amicus curiae. Such individ-
2 uals shall be persons who possess expertise in pri-
3 vacy and civil liberties, intelligence collection, tele-
4 communications, or any other area of law that may
5 lend legal or technical expertise to the courts and
6 who have been determined by appropriate executive
7 branch officials to be eligible for access to classified
8 information.

9 “(3) DUTIES.—An individual appointed to serve
10 as amicus curiae under paragraph (1) shall carry
11 out the duties assigned by the appointing court.
12 Such court may authorize the individual appointed
13 to serve as amicus curiae to review any application,
14 certification, petition, motion, or other submission
15 that the court determines is relevant to the duties
16 assigned by the court.

17 “(4) NOTIFICATION.—The presiding judges of
18 the courts established under subsections (a) and (b)
19 shall notify the Attorney General of each exercise of
20 the authority to appoint an individual to serve as
21 amicus curiae under paragraph (1).

22 “(5) ASSISTANCE.—A court established under
23 subsection (a) or (b) may request and receive (in-
24 cluding on a non-reimbursable basis) the assistance

1 of the executive branch in the implementation of this
2 subsection.

3 “(6) ADMINISTRATION.—A court established
4 under subsection (a) or (b) may provide for the des-
5 ignation, appointment, removal, training, or other
6 support for an individual appointed to serve as ami-
7 cus curiae under paragraph (1) in a manner that is
8 not inconsistent with this subsection.”.

9 **SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND**
10 **OPINIONS.**

11 (a) DECLASSIFICATION.—Title VI (50 U.S.C. 1871
12 et seq.) is amended—

13 (1) in the heading, by striking “**REPORT-**
14 **ING REQUIREMENT**” and inserting “**OVER-**
15 **SIGHT**”; and

16 (2) by adding at the end the following new sec-
17 tion:

18 **“SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS,**
19 **ORDERS, AND OPINIONS.**

20 “(a) DECLASSIFICATION REQUIRED.—Subject to
21 subsection (b), the Attorney General shall conduct a de-
22 classification review of each decision, order, or opinion
23 issued by the Foreign Intelligence Surveillance Court or
24 the Foreign Intelligence Surveillance Court of Review (as
25 defined in section 601(e)) that includes significant con-

1 struction or interpretation of any provision of this Act
2 and, consistent with that review, make publicly available
3 to the greatest extent practicable each such decision,
4 order, or opinion.

5 “(b) REDACTED FORM.—The Attorney General may
6 satisfy the requirement under subsection (a) to make a
7 decision, order, or opinion described in such subsection
8 publicly available to the greatest extent practicable by
9 making such decision, order, or opinion publicly available
10 in redacted form.

11 “(c) NATIONAL SECURITY WAIVER.—The Attorney
12 General may waive the requirement to declassify and make
13 publicly available a particular decision, order, or opinion
14 under subsection (a) if the Attorney General—

15 “(1) determines that a waiver of such require-
16 ment is necessary to protect the national security of
17 the United States or properly classified intelligence
18 sources or methods; and

19 “(2) makes publicly available an unclassified
20 summary of such decision, order, or opinion.”.

21 (b) TABLE OF CONTENTS AMENDMENTS.—The table
22 of contents in the first section is amended—

23 (1) by striking the item relating to title VI and
24 inserting the following new item:

“TITLE VI—OVERSIGHT”; AND

1 (2) by inserting after the item relating to sec-
2 tion 601 the following new item:

“Sec. 602. Declassification of significant decisions, orders, and opinions.”.

3 **TITLE V—NATIONAL SECURITY**
4 **LETTER REFORM**

5 **SEC. 501. PROHIBITION ON BULK COLLECTION.**

6 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
7 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)
8 of title 18, United States Code, is amended in the matter
9 preceding paragraph (1) by striking “may” and inserting
10 “may, using a specific selection term as the basis for a
11 request”.

12 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
13 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
14 1114(a)(2) of the Right to Financial Privacy Act of 1978
15 (12 U.S.C. 3414(a)(2)) by striking the period and insert-
16 ing “and a specific selection term to be used as the basis
17 for the production and disclosure of financial records.”.

18 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER
19 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-
20 tion 626(a) of the Fair Credit Reporting Act (15 U.S.C.
21 1681u(a)) is amended by striking “that information,” and
22 inserting “that information that includes a specific selec-
23 tion term to be used as the basis for the production of
24 that information,”.

1 (d) DISCLOSURES TO GOVERNMENTAL AGENCIES
2 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-
3 PORTS.—Section 627(a) of the Fair Credit Reporting Act
4 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”
5 and inserting “analysis and a specific selection term to
6 be used as the basis for the production of such informa-
7 tion.”.

8 (e) DEFINITIONS.—

9 (1) COUNTERINTELLIGENCE ACCESS TO TELE-
10 PHONE TOLL AND TRANSACTIONAL RECORDS.—Sec-
11 tion 2709 of title 18, United States Code, is amend-
12 ed by adding at the end the following new sub-
13 section:

14 “(g) SPECIFIC SELECTION TERM DEFINED.—In this
15 section, the term ‘specific selection term’ has the meaning
16 given the term in section 501 of the Foreign Intelligence
17 Surveillance Act of 1978 (50 U.S.C. 1861).”.

18 (2) ACCESS TO FINANCIAL RECORDS FOR CER-
19 TAIN INTELLIGENCE AND PROTECTIVE PURPOSES.—
20 Section 1114 of the Right to Financial Privacy Act
21 (12 U.S.C. 3414) is amended by adding at the end
22 the following new subsection:

23 “(e) In this section, the term ‘specific selection term’
24 has the meaning given the term in section 501 of the For-

1 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
2 1861).”.

3 (3) DISCLOSURES TO FBI OF CERTAIN CON-
4 SUMER RECORDS FOR COUNTERINTELLIGENCE PUR-
5 POSES.—Section 626 of the Fair Credit Reporting
6 Act (15 U.S.C. 1681u) is amended by adding at the
7 end the following new subsection:

8 “(n) SPECIFIC SELECTION TERM DEFINED.—In this
9 section, the term ‘specific selection term’ has the meaning
10 given the term in section 501 of the Foreign Intelligence
11 Surveillance Act of 1978 (50 U.S.C. 1861).”.

12 (4) DISCLOSURES TO GOVERNMENTAL AGEN-
13 CIES FOR COUNTERTERRORISM PURPOSES OF CON-
14 SUMER REPORTS.—Section 627 of the Fair Credit
15 Reporting Act (15 U.S.C. 1681v) is amended by
16 adding at the end the following new subsection:

17 “(g) SPECIFIC SELECTION TERM DEFINED.—In this
18 section, the term ‘specific selection term’ has the meaning
19 given the term in section 501 of the Foreign Intelligence
20 Surveillance Act of 1978 (50 U.S.C. 1861).”.

1 **TITLE VI—FISA TRANSPARENCY**
2 **AND REPORTING REQUIRE-**
3 **MENTS**

4 **SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING**
5 **PRODUCTION OF BUSINESS RECORDS.**

6 Section 502(b) (50 U.S.C. 1862(b)) is amended—

7 (1) by redesignating paragraphs (1), (2), and
8 (3) as paragraphs (5), (6), and (7), respectively; and

9 (2) by inserting before paragraph (5) (as so re-
10 designated) the following new paragraphs:

11 “(1) the total number of applications described
12 in section 501(b)(2)(B) made for orders approving
13 requests for the production of tangible things;

14 “(2) the total number of such orders either
15 granted, modified, or denied;

16 “(3) the total number of applications described
17 in section 501(b)(2)(C) made for orders approving
18 requests for the production of call detail records;

19 “(4) the total number of such orders either
20 granted, modified, or denied;”.

21 **SEC. 602. BUSINESS RECORDS COMPLIANCE REPORTS TO**
22 **CONGRESS.**

23 (a) **BUSINESS RECORDS PRODUCTIONS.**—Section
24 502(b) (50 U.S.C. 1862(b)), as amended by section 601
25 of this Act, is further amended—

1 (1) by redesignating paragraphs (1) through
2 (7) as paragraphs (2) through (8), respectively; and

3 (2) by inserting before paragraph (2) (as so re-
4 designated) the following new paragraph:

5 “(1) any compliance reviews conducted by the
6 Federal Government of the production of tangible
7 things under section 501;”.

8 (b) FISA AUTHORITIES IN GENERAL.—Section
9 601(a) (50 U.S.C. 1871(a)) is amended—

10 (1) in paragraph (4), by striking “; and” and
11 inserting a semicolon;

12 (2) in paragraph (5), by striking the period and
13 inserting “; and”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(6) any compliance reviews conducted by the
17 Federal Government of electronic surveillance, phys-
18 ical searches, the installation of pen register or trap
19 and trace devices, access to records, or acquisitions
20 conducted under this Act.”.

1 **SEC. 603. ANNUAL REPORT BY THE DIRECTOR OF THE AD-**
2 **MINISTRATIVE OFFICE OF THE UNITED**
3 **STATES COURTS ON ORDERS ENTERED.**

4 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
5 as amended by section 402 of this Act, is further amended
6 by adding at the end the following new section:

7 **“SEC. 603. ANNUAL REPORT ON ORDERS ENTERED.**

8 “The Director of the Administrative Office of the
9 United States Courts shall annually submit to the Perma-
10 nent Select Committee on Intelligence and the Committee
11 on the Judiciary of the House of Representatives and the
12 Select Committee on Intelligence and the Committee on
13 the Judiciary of the Senate and make publicly available
14 on an Internet website—

15 “(1) the number of orders entered under each
16 of sections 105, 304, 402, 501, 702, 703, and 704;

17 “(2) the number of orders modified under each
18 of those sections;

19 “(3) the number of orders denied under each of
20 those sections; and

21 “(4) the number of appointments of an indi-
22 vidual to serve as amicus curiae under section 103,
23 including the name of each individual appointed to
24 serve as amicus curiae.”.

25 (b) TABLE OF CONTENTS AMENDMENT.—The table
26 of contents in the first section, as amended by section 402

1 of this Act, is further amended by inserting after the item
2 relating to section 602, as added by such section 402, the
3 following new item:

“Sec. 603. Annual report on orders entered.”.

4 **SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS OF**
5 **THE FOREIGN INTELLIGENCE SURVEIL-**
6 **LANCE COURT.**

7 Section 601(c)(1) (50 U.S.C. 1871(c)) is amended to
8 read as follows:

9 “(1) not later than 45 days after the date on
10 which the Foreign Intelligence Surveillance Court or
11 the Foreign Intelligence Surveillance Court of Re-
12 view issues a decision, order, or opinion that in-
13 cludes a significant construction or interpretation of
14 any provision of this Act or a denial of a request for
15 an order or a modification of a request for an order,
16 or results in a change of application of any provision
17 of this Act or a new application of any provision of
18 this Act—

19 “(A) a copy of such decision, order, or
20 opinion and any pleadings, applications, or
21 memoranda of law associated with such deci-
22 sion, order, or opinion; and

23 “(B) with respect to such decision, order,
24 or opinion, a brief statement of the relevant

1 background factual information, questions of
2 law, legal analysis, and decision rendered; and”.

3 **SEC. 605. SUBMISSION OF REPORTS UNDER FISA.**

4 (a) **ELECTRONIC SURVEILLANCE.**—Section 108(a)(1)
5 (50 U.S.C. 1808(a)(1)) is amended by striking “the
6 House Permanent Select Committee on Intelligence and
7 the Senate Select Committee on Intelligence, and the
8 Committee on the Judiciary of the Senate,” and inserting
9 “the Permanent Select Committee on Intelligence and the
10 Committee on the Judiciary of the House of Representa-
11 tives and the Select Committee on Intelligence and the
12 Committee on the Judiciary of the Senate”.

13 (b) **PHYSICAL SEARCHES.**—Section 306 (50 U.S.C.
14 1826) is amended—

15 (1) in the first sentence, by striking “Perma-
16 nent Select Committee on Intelligence of the House
17 of Representatives and the Select Committee on In-
18 telligence of the Senate, and the Committee on the
19 Judiciary of the Senate,” and inserting “Permanent
20 Select Committee on Intelligence and the Committee
21 on the Judiciary of the House of Representatives
22 and the Select Committee on Intelligence and the
23 Committee on the Judiciary of the Senate”; and

1 (2) in the second sentence, by striking “and the
2 Committee on the Judiciary of the House of Rep-
3 resentatives”.

4 (c) PEN REGISTER AND TRAP AND TRACE DE-
5 VICES.—Section 406(b) (50 U.S.C. 1846(b)) is amend-
6 ed—

7 (1) in paragraph (2), by striking “; and” and
8 inserting a semicolon;

9 (2) in paragraph (3), by striking the period and
10 inserting a semicolon; and

11 (3) by adding at the end the following new
12 paragraphs:

13 “(4) each department or agency on behalf of
14 which the Government has made application for or-
15 ders approving the use of pen registers or trap and
16 trace devices under this title; and

17 “(5) for each department or agency described in
18 paragraph (4), a breakdown of the numbers required
19 by paragraphs (1), (2), and (3).”.

20 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
21 OTHER TANGIBLE THINGS.—Section 502(a) (50 U.S.C.
22 1862(a)) is amended by striking “Permanent Select Com-
23 mittee on Intelligence of the House of Representatives and
24 the Select Committee on Intelligence and the Committee
25 on the Judiciary of the Senate” and inserting “Permanent

1 Select Committee on Intelligence of the House of Rep-
2 resentatives, the Select Committee on Intelligence of the
3 Senate, and the Committees on the Judiciary of the House
4 of Representatives and the Senate”.

5 **TITLE VII—SUNSETS**

6 **SEC. 701. SUNSETS.**

7 (a) USA PATRIOT IMPROVEMENT AND REAUTHOR-
8 IZATION ACT OF 2005.—Section 102(b)(1) of the USA
9 PATRIOT Improvement and Reauthorization Act of 2005
10 (50 U.S.C. 1805 note) is amended by striking “June 1,
11 2015” and inserting “December 31, 2017”.

12 (b) INTELLIGENCE REFORM AND TERRORISM PRE-
13 VENTION ACT OF 2004.—Section 6001(b)(1) of the Intel-
14 ligence Reform and Terrorism Prevention Act of 2004 (50
15 U.S.C. 1801 note) is amended by striking “June 1, 2015”
16 and inserting “December 31, 2017”.

